

0016

Outgoing
C0250005
K

From: Dana Dean
To: ebretthaur@scinternet.net
CC: Daron Haddock
Date: 10/21/2009 6:13 PM
Subject: Re: Alton Coal Development
Attachments: Permit.pdf; DecDocument 10152009.pdf

Mr. Bretthauer:

Based on your email I am not entirely sure what you are looking for.

If you would like to know what standards the mine has met to obtain a permit, and for which they will be responsible during the mine life, they may be found in the laws and regulations listed below. Information as to how Alton Coal Development has specifically met those standards may be found in their application, and our Technical Analysis of the application. Those may be found in our Public Information Center, or online at <http://ogm.utah.gov/fs/filesbypermit.php?C0250005>. We would be glad to help you navigate to the information if you give us a call or come into the Public Information Center.

I have attached our Decision Document and Proposed Permit - these are the culmination of our review and do not go into the detail that the Technical Analysis does. The Technical Analysis and other pertinent documents are too large to send by email.

I realize that the regulations and laws don't make for good reading. I will try to summarize our process for you.

In order to obtain a coal mining permit the applicant must demonstrate that the area they plan to mine can be reclaimed when mining is complete. Reclaimed means that the land is returned to its approximate original contour, and can sustain the pre-mining land use or some higher or better use. They must meet stringent standards of performance relating to cultural resources, vegetation, soils, wildlife, geology, hydrology, and engineering. They must post a performance bond with the State, which will ensure the site will be properly reclaimed, even if the mining company goes bankrupt. Throughout the mine life they will be inspected by the State and Federal Office of Surface Mining and must be in continuous compliance. They have provided us with much data regarding the current status of the vegetation, wildlife, water, and cultural resources in and around the mine site and will be required to monitor them throughout the mine life and for a period of at least ten years afterward. Our regulations are designed to avoid negative environmental impacts off-site, and if such occur, they must be mitigated immediately.

If you have further questions, and especially if I misunderstood your question, please let me know.

Thank you,
Dana Dean, P.E.
Associate Director-Mining
Utah Division of Oil, Gas and Mining
danadean@utah.gov
(801) 538-5320

-Public Law 95-87, The Surface Mining Control and Reclamation Act of 1977 (SMCRA)
<http://www.osmre.gov/topic/SMCRA/SMCRA.shtml>

-CFR 30 Parts 700 to the end
http://www.access.gpo.gov/nara/cfr/waisidx_07/30cfrv3_07.html

-Utah Code Title 40 Chapter 2
http://www.le.state.ut.us/~code/TITLE40/40_02.htm

and -Utah Administrative Code Title R645 (particularly part 301)
<http://www.rules.utah.gov/publicat/code/r645/r645.htm>

>>> Erich Bretthauer <ebretthauer@scinternet.net> 10/21/2009 2:41 PM >>>
Please provide a copy of the conditions related to the subject development Erich Bretthauer

DRAFT

NON-FEDERAL

PERMIT
C/025/0005

October 15, 2009

STATE OF UTAH
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING
1594 West North Temple, Suite 1210
P.O. Box 145801
Salt Lake City, Utah 84114-5801
(801) 538-5340

This permit, C/025/0005, is issued for the state of Utah by the Utah Division of Oil, Gas and Mining (DOGM) to:

ALTON COAL DEVELOPMENT, LLC
463 North 100 West, Suite 1
Cedar City, Utah 84720
(435)867-5331

for the Coal Hollow Mine. Alton Coal Development, LLC is the owner of the entire surface parcel included within the permit area. A performance bond is filed with the DOGM in the amount of \$6,045,000.00, payable to the state of Utah, Division of Oil, Gas and Mining. DOGM must receive a copy of this permit signed and dated by the permittee.

Sec. 1 STATUTES AND REGULATIONS - This permit is issued pursuant to the Utah Coal Mining and Reclamation Act of 1979, Utah Code Annotated (UCA) 40-10-1 et seq, hereafter referred to as the Act.

TOWNSHIP 39 SOUTH-RANGE 05 WEST, SLB&M

Section 30: All of Section Lot #1 (NW $\frac{1}{4}$ NW $\frac{1}{4}$); NE $\frac{1}{4}$ NW $\frac{1}{4}$; N $\frac{1}{2}$ NE $\frac{1}{4}$; ALSO:
BEGINNING 3.50 chains West of the East Quarter corner of Said Section 30, and running South 34° 34' West 22.64 chains of the 1/16 section line; thence West 2.64 chains to the Southwest corner of NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Said Section 30; thence North 40.00 chains; thence East 20.00 chains; thence South 14.69 chains; thence southwesterly to the point of beginning...containing 217.64 acres, more or less.

TOWNSHIP 39 SOUTH-RANGE 05 WEST, SLB&M

Section 29: BEGINNING at the Northwest corner of Said Section 29, and running thence South 34.69 chains; thence North 33° 22' East 35.50 chains; thence North 40° West 0.58 chains; thence North 37° 30' East 12.30 chains; thence West 22.23 chains to the point of beginning...containing 36.04 acres, more or less.

TOWNSHIP 39 SOUTH-RANGE 05 WEST, SLB&M

Section 19: SW $\frac{1}{4}$ SE $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$...containing 160.0 acres, more or less.

TOWNSHIP 39 SOUTH-RANGE 05 WEST, SLB&M

Section 20: SW¼...containing 160.00 acres, more or less.

TOWNSHIP 39 SOUTH-RANGE 05 WEST, SLB&M

Section 30: BEGINNING at a point 5.31 chains North of the E¼ corner of Said Section 30, and running thence South 45.31 chains; thence West 20.00 chains; thence North 20.00 chains; thence East 2.64 chains; thence North 34° 34' East 22.64 chains to the 1/16 section line; thence North 33° 22' East to the point of beginning...containing 61.96 acres, more or less.

This legal description is for the permit area (635.64 acres) of the Coal Hollow Mine and included in the operation and reclamation plan on file at the Division. The permittee is authorized to conduct coal mining and reclamation operations connected with a preparation plant on the foregoing described property subject to the leases and Conditional Use Permit issued by Kane County, including all conditions and all other applicable conditions, laws and regulations.

Sec. 3 COMPLIANCE - The permittee will comply with the terms and conditions of the permit, all applicable performance standards and requirements of the State Program.

Sec. 4 PERMIT TERM - This permit becomes effective on October 15, 2009 and expires on October 16, 2014 (5 year term).

Sec. 5 ASSIGNMENT OF PERMIT RIGHTS - The permit rights may not be transferred, assigned or sold without the approval of the Director, DOGM. Transfer, assignment or sale of permit rights must be done in accordance with applicable regulations, including but not limited to 30 CFR 740.13(e) and R645-303.

Sec. 6 RIGHT OF ENTRY - The permittee shall allow the authorized representative of the DOGM, including but not limited to inspectors, and representatives of OSMRE, without advance notice or a search warrant, upon presentation of appropriate credentials, and without delay to:

- A. have the rights of entry provided for in 30 CFR 840.12, R645-400-110, 30 CFR 842.13 and R645-400-220; and,
- B. be accompanied by private persons for the purpose of conducting an inspection in accordance with R645-400-100 and 30 CFR 842, when the inspection is in response to an alleged violation reported by the private person.

Sec. 7 SCOPE OF OPERATIONS - The permittee shall conduct coal mining and reclamation operations only on those lands specifically designated as within the permit area on the maps submitted in the mining and reclamation plan and permit application and approved for the term of the permit and which are subject to the performance bond.

Sec. 8 ENVIRONMENTAL IMPACTS - The permittee shall minimize any adverse impact to the environment or public health and safety through but not limited to:

- A. accelerated monitoring to determine the nature and extent of noncompliance and the results of the noncompliance;
- B. immediate implementation of measures necessary to comply; and
- C. warning, as soon as possible after learning of such noncompliance, any person whose health and safety is in imminent danger due to the noncompliance.

Sec. 9 DISPOSAL OF POLLUTANTS - The permittee shall dispose of solids, sludge, filter backwash or pollutants in the course of treatment or control of waters or emissions to the air in the manner required by the approved Utah State Program and the Federal Lands Program which prevents violation of any applicable state or federal law.

Sec. 10 CONDUCT OF OPERATIONS - The permittee shall conduct its operations:

- A. in accordance with the terms of the permit to prevent significant, imminent environmental harm to the health and safety of the public; and
- B. utilizing methods specified as conditions of the permit by DOGM in approving alternative methods of compliance with the performance standards of the Act, the approved Utah State Program and the Federal Lands Program.

Sec. 11 EXISTING STRUCTURES - As applicable, the permittee will comply with R645-301 and R645-3023 for compliance, modification, or abandonment of existing structures.

Sec. 12 RECLAMATION FEE PAYMENT - The operator shall pay all reclamation fees required by 30 CFR part 870 for coal produced under the permit, for sale, transfer or use.

Sec. 13 AUTHORIZED AGENT - The permittee shall provide the names, addresses and telephone numbers of persons responsible for operations under the permit to whom notices and orders are to be delivered.

Sec. 14 COMPLIANCE WITH OTHER LAWS - The permittee shall comply with the provisions of the Water Pollution Control Act (33 USC 1151 et seq.) and the Clean Air Act (42 USC 7401 et seq.), UCA 26-11-1 et seq, and UCA 26-13-1 et seq.

Sec. 15 PERMIT RENEWAL - Upon expiration, this permit may be renewed for areas within the boundaries of the existing permit in accordance with the Act, the approved Utah

State Program and the Federal Lands Program.

- Sec. 16 CULTURAL RESOURCES** - If during the course of mining operations, previously unidentified cultural resources are discovered, the permittee shall ensure that the site(s) is not disturbed and shall notify DOGM. DOGM, after coordination with OSMRE, shall inform the permittee of necessary actions required. The permittee shall implement the mitigation measures required by DOGM within the time frame specified by DOGM.
- Sec. 17 APPEALS** - The permittee shall have the right to appeal as provided for under R645-300.
- Sec. 18 SPECIAL CONDITIONS** - There are special conditions associated with this permitting action as described in Attachment A.

Date: _____

ATTACHMENT A
SPECIAL CONDITIONS

1. Alton Coal Development, LLC (ACD) will submit water quality data for the Coal Hollow Mine in an electronic format through the Electronic Data Input web site, <http://linux1.ogm.utah.gov/cgi-bin/appx-ogm.cgi>.
2. In the event that ACD encounters large volumes of groundwater (a sustained flow of more than 1 cfs) in any pit other than pit 15, they will be required to notify the Division, and assess and submit plans to curtail inflows to the pit and reestablish groundwater movement.
3. When filling and reclaiming pits, porous fill material must not be left adjacent to the alluvial aquifers. As mining progresses to the south of Pit 15, if the coarse grained alluvium zone connected to the adjacent artesian water system is intersected by mining and a sustained flow greater than 1 cfs is encountered, the compacted shale barrier constructed in Pit 15 must then be extended south to these points of intersection. This extension of the shale barrier will meet the same specifications described in the application for the Pit 15 permanent barrier.
4. The Applicant will be required to monitor for selenium where water leaves the minesite, during operational and reclamation phases.
5. The Applicant will be required to evaluate discharges from the mine to determine any impacts to the designated AVF on Kanab Creek. An annual finding should be placed in the Annual Report during operation and reclamation of any adverse impacts to the channel, diminution of water quality and impacts to wildlife.
6. The Applicant must receive an Air Quality Approval Order prior to conducting surface mining.
7. Satisfactory compliance with the Alton Sage-Grouse Habitat Protection plan is required. Alton Coal Development, LLC will use best technology currently available to achieve the objectives of the plan in order to minimize the disturbances and adverse impacts to the sage grouse and related habitat and to enhance those resources where practicable. ACD will cooperate with the Division in consultation with the state and federal wildlife agencies to develop reasonable practices and methods as are determined to be necessary to implement the plan and to measure success and to achieve the goals of the plan.

**UTAH DIVISION OF OIL, GAS AND MINING
STATE DECISION DOCUMENT
AND APPLICATION APPROVAL**

Alton Coal Development, LLC
Coal Hollow Project
C/025/005
Kane County, Utah

October 15, 2009

CONTENTS

- * Administrative Overview and Recommendation for Approval
- * Permitting Chronology
- * Findings
- * Proposed Permit
- * Location Map
- * Determination of Completeness
- * Technical Analysis, dated October 15, 2009
- * CHIA, dated October 15, 2009
- * AVS Recommendation and Memo to File, dated October 15, 2009
- * Publication Notices
- * Insurance Certificate

ADMINISTRATIVE OVERVIEW

Alton Coal Development, LLC
Coal Hollow Project
C/025/005
Kane County, Utah

October 15, 2009

PROPOSAL

Alton Coal Development, LLC is applying for a permit to conduct surface coal mining operations at its site located south of the town of Alton, Utah in Kane County. The proposed development is the Coal Hollow Mining Project, which anticipates surface mining within a 635.64 acre permit area all in fee ownership. The center of the Coal Hollow Project is located approximately 3 miles south of the town of Alton, Utah. This project involves the development of a surface mining operation that will produce approximately 2,000,000 tons of coal annually for approximately 3 years. The coal will be transported from the Alton coalfield in trucks. The applicant has an interest in adjoining federal property and has applied to the BLM for additional leases through the Lease by Application (LBA) process. This Decision Document does not cover the development of the federal leases, which will be addressed under a separate permitting action.

The Coal Hollow Project This project

BACKGROUND

On June 27, 2006 Talon Resources, Inc. submitted a new permit application for the Coal Hollow Mine. The application was reviewed, determined to be incomplete and denied on August 26, 2006. A new application was again submitted by Alton Coal Development, LLC, for the Coal Hollow Mine on June 14, 2007. This application was also reviewed, determined to be incomplete and denied on August 27, 2007.

On January 24, 2008, the Division received supplemental information as part of the application to permit the Coal Hollow Project. On March 14, 2008 the application was determined to be administratively complete and a technical review of the application commenced. Public notification, through the Southern Utah News, occurred from March 26, 2008 to April 16, 2008. An informal conference was requested and held on June 16, 2008 in the Alton City Hall. Several comments were received, reviewed and considered during the review process.

The review process consisted of the Division identifying deficiencies in the application and the applicant (Alton Coal Development, LLC) providing responses. Input from the public and other agencies was requested and considered during the process. Numerous meetings were held to discuss the results. Alton Coal Development, LLC provided additional information on December 22, 2008, August 17, 2009 and October 8, 2009. Finally on October 14, 2009 the last submittal was made which incorporated all of the updates made throughout the review process and the application was considered to be complete and accurate with a few housekeeping still needed to clean up some inconsistencies in the application.

HOUSEKEEPING CORRECTIONS NEEDED

Required Supporting documentation to be provided before permit issuance:

R645 - 301- 622.300 requires strike and dip be shown on a map. Strike and dip are not evident on Drawings 6-1 and 6-6 (see statement in Section 622.300). Clearly indicate strike and dip on Drawings 6-1 and 6-6, or if strike and dip are shown on other maps, correct the reference in Section 622.300.

Add information on surface-water monitoring points SVWOBS-1 and SVWOBS-2 to Section 724.200 and appropriate maps.

Clear and concise issues to be corrected before permit issuance:

- Add Drawings 15 and 15B to the Table of Contents for Chapter 7.
- Clarify that silt fencing treating runoff from Watershed 6 will be placed on the upslope or east side of the relocated channel, rather than on the downslope or west side as indicated on

Drawing 5-26.

- Update Section 731.600 Stream Buffer Zones to include “ephemeral streams that drain a watershed of at least one square mile” (R645-301-731.600 was reworded after the Applicant’s initial submittal).
- Page 5-59 still contains a reference to grading within 180 days which must be corrected to be in compliance with the requirements of R645-301-553.

RECOMMENDATION

All of the information submitted by Alton Coal Development, LLC has been found adequate to approve the application for a new permit for the Coal Hollow Mine. A Technical Analysis has been completed which indicates that the application is considered to be complete and accurate as long as a few specified conditions are complied with. A Cumulative Hydrologic Impact Assessment has been completed that has determined that the mining and reclamation operation has been designed to prevent material damage to the hydrologic balance outside the permit area. This permitting action was published in the Kane County Southern Utah News on March 26, April 2, 9 and 16, 2008. An informal conference was held on June 16, 2008 where comments on the application were received. Additional opportunity for comment and public hearing was provided on March 25, 2009 when the Division published notice of temporary road relocation for K3900 and temporary road closure for K3993 in the Southern Utah News, in accordance with R645-103-234. The comment period ran for 30 days with no requests for a hearing received.

An OSM-AVS recommendation was requested on October 15, 2009, which indicated no outstanding violations.

A certificate has been provided through James Banasky Insurance Inc., which shows that Alton coal Development, LLC has an adequate public liability insurance policy in force.

It is, therefore, recommended that the application submitted by Alton Coal Development, LLC for the Coal Hollow Mine be approved with the conditions attached to the proposed permit. Once an adequate reclamation bond has been posted for the project and the Applicant has updated, corrected or indicated that no change has occurred in the information previously submitted under R645-301-112.100 through R645-301-112.88 and R645-301-113, a permit for the Coal Hollow Project can be issued.

PERMITTING CHRONOLOGY

Alton Coal Development

Coal Hollow Mine

C/025/0005

Kane County, Utah

October 15, 2009

June 27, 2006	Talon Resources, Inc. submits new permit application for the Coal Hollow Mine.
August 28, 2006	The Division determines the application incomplete and the application is returned.
September 6, 2006	OSM determines that Federal Mine Plan approval not required for this surface operation on private lands to mine fee coal ((2006/Incoming/0008.pdf).
June 14, 2007	Alton Coal Development, LLC submits revised permit application for the Coal Hollow Mine.
August 13, 2007	OSM determines that Federal Mine Plan approval is not required (2007/Incoming/0012.pdf).
August 22, 2007	The Division determines the application incomplete. The application is held pending further information.
January 24, 2008	Alton Coal Development, LLC provides supplemental information to be reviewed with the June 14, 2007 application already on file.
March 14, 2008	The Division makes a Determination of Completeness (2008/Outgoing/0001.pdf). Technical review begins as Task 2910.
March 26, April 2, 9 & 16, 2008	Notice of permit renewal application was published in the <u>Southern Utah News</u> for four consecutive weeks. (Copy provided to the Division, 2008/Incoming/0009.pdf)
March 13, 2008	An Applicant Violator System check indicated that the company has not operated previously in the United States, but two of the officers have been previously engaged in coal mining operations. No unresolved or outstanding violations were retrieved from the system for these two officers.
March 19, 2008	Division notifies agencies of the Determination of Administrative

	Completeness for the Permit Renewal and requests comments by May 22, 2008 (Outgoing/0002.pdf).
March 31, 2008	Southern Utah Wilderness Alliance (SUWA) was sent an electronic version of the agency notification letter, indicating a comment date of May 22, 2008.
May 16, 2008	Thirty-day public comment period ends. Thirty-three comments received. Three of these commenters requested an informal conference.
May 22, 2008	Agency comment period ends. (The Governor's Office Resource Development Coordination Council (RDCC) published the May 22, 2008 end date on their web site, consequently the Division accepted public comment through the May 22, 2008 date) Nineteen additional comments were received and three additional requests for an informal conference.
	Southern Utah Wilderness Alliance (SUWA) requests "Consulting Party Status" for cultural resource management.
June 16, 2008	Informal Conference held in Alton, Utah to receive comments on the proposed mine and the proposed relocation of County Rd. 136. Forty-seven members of the public were in attendance. Twenty commenters were heard. Director Baza extends Informal Conference written comment period to June 20, 2008.
	In accordance with R645-300-131.120, the technical review period is suspended pending results of the Informal Conference.
June 20, 2008	Informal Conference written comment period ends. Twelve written comments were received, including a petition requesting further studies of natural and cultural resources in the adjacent area (2008\Incoming\0123.doc). The petition provides contact information for 37 supporters.
July 14, 2008	SHPO provided concurrence on the Cultural Resource Management Plan (CRMP) and data recovery plan for seven archaeological sites that will be adversely affected.
July 18, 2008	Director Baza signs Informal Conference Findings and Order Cause No C/025/005 (Outgoing/0024.pdf).
	Technical review period resumes in accordance with R614-300-131.220.
August 4, 2008	List of deficiencies for Task 2910 and request for further information sent to Applicant. (Outgoing/0025.pdf) Technical review suspended until further information received from applicant.

August 13, 2008	Director Baza requests agreement from Alton Coal Resources, LLC to waive requirement for time limit imposed on the Division to issue written findings modifying, granting or denying the permit application within 60 days of the informal conference (2008/Outgoing/0027.pdf)
August 18, 2008	Agreement to above waiver received by signature from Denise Dragoo, Attorney for Alton Coal Development, LLC. (Incoming/0138.pdf).
September 2, 2008	Technical Analysis for Task 2910 sent to Applicant (Outgoing/0029.pdf).
December 22, 2008	Alton Coal Resources, LLC. provides supplemental information in response to August 4, 2008 list of deficiencies.
January 5, 2009	Review assignments made. Technical review resumes.
March 18, 2009	Draft Technical Analysis forwarded to Division management.
March 25, 2009	The Division published notice of temporary road relocation for K3900 and temporary road closure for K3993 in the <u>Southern Utah News</u> , in accordance with R645-103-234. (Copy provided to the Division, 2009/Incoming/0012.pdf) Comment period runs for 30 days from date of notice.
April 20, 2009	Division sent Technical Analysis containing deficiencies to Alton Coal Development.
June 16, 2009	Alton Coal Development provides Initial [partial] Response to Technical Analysis. (Given Task # 3338.)
July 2, 2009	Snell and Wilmer provides Division with legal opinion concerning Legal Standards Governing Identification of Alluvial Valley Floors. (2009/Incoming/0015.pdf).
August 27, 2009	Division receives complete response to Technical Analysis (Given Task #3371).
October 8, 2009	Division receives "Supplemental Information to Response of Technical Review [Sage Grouse and subirrigation study information].
October 15, 2009	Division makes Findings regarding decision to permit as required by R645-300-131.114. The Division has accrued a total of 271 days (9 months) technical and administrative review time.
October 15, 2009	CHIA and Technical Analysis are completed. Application Approved.

FINDINGS

Alton Coal Development, LLC
Coal Hollow Project
C/025/005
Kane County, Utah

October 15, 2009

1. The permit application for the Coal Hollow Project is accurate and complete and all requirements of the Surface Mining Control and Reclamation Act, and the approved Utah State Program (the "Act") are in compliance. See Technical Analysis dated October 15, 2009 (R645-300-133.100)
2. The applicant proposes acceptable practices for the reclamation of disturbed lands. The Division has determined that reclamation, as required by the Act can be feasibly accomplished following the approved plan with the attached permit conditions. The site will be returned to its pre-mining land uses of grazing, and wildlife habitat. (R645-300-133.710)
3. An assessment of the probable cumulative impacts of all anticipated coal mining and reclamation activities in the general area on the hydrologic balance has been conducted by the Division and no significant impacts were identified. See CHIA dated October 15, 2009. The Mining and Reclamation Plan (MRP) proposed under the revised application has been designed to prevent damage to the hydrologic balance in the permit area and in associated off-site area (R645-300-133.400 and UCA 40-10-11 (2)(c)).
4. The proposed lands to be included within the permit area are:
 - a. not included within an area designated unsuitable for mining operations (R645-300-133.220);
 - b. not within an area under study or administrative proceedings to have an area designated as unsuitable for coal mining and reclamation operations. (R645-300-133.210);
 - c. not on any lands subject to the prohibitions or limitation of 30 CFR 761.11 {a} (national parks, etc), 761.11 {f} (public buildings, etc.) and 761.11 {g} (cemeteries);
 - d. is within 100 feet of Kane County public road K3900, however a public hearing was held on June 16, 2008 where opportunity for comment was provided. Another public notice and opportunity for a public hearing was provided in a newspaper notice dated March 25, 2009, regarding the temporary relocation of Kane County public road K3900 and the temporary closure of Kane County public road K3933. No requests for a

hearing were received and it has been determined that the interests of the public with regard to roads have been protected. (R645-300-133.220); and

- e. not within 300 feet of any occupied dwelling (R645-300-133.220).
- 5. The operation would not affect the continued existence of any threatened or endangered species or result in the destruction or adverse modification of their critical habitats as determined under the Endangered Species Act of 1973. See Technical Analysis dated October 15, 2009 (16 USC 1531 et seq.) (R645-300-133.500).
- 6. The Division's issuance of a permit is in compliance with the National Historic Preservation Act and implementing regulations (36 CFR 800). See Technical Analysis dated October 15, 2009. (R645-300-133.600)
- 7. The applicant has the legal right to enter and complete mining activities in the permit area through leases with the following lessors: C. Burton Pugh, Roger M. Pugh, Margaret and Mark Moyers, Alecia Swapp Dame Trust. (R645-300-133.300)
- 8. A 510 (c) report has been run on the Applicant Violator System (AVS), which shows that: there are no prior violations of applicable laws and regulations or that all prior violations have been corrected; neither Alton Coal Development, LLC nor any affiliated company, are delinquent in payment of fees for the Abandoned Mine Reclamation Fund; and the applicant does not control and has not controlled mining operations with demonstrated pattern of willful violations of the Act of such nature, duration, and with such resulting irreparable damage to the environment as to indicate an intent not to comply with the provisions of the Act (A 510 (c) report was run on October 15, 2009, see memo to file dated October 15, 2009. (R645-300-133.730)
- 9. The operations to be performed under the permit will not be inconsistent with other operations anticipated to be performed in areas adjacent to the proposed permit area.
- 10. The applicant has provided a cost estimate for reclamation of the proposed disturbance associated with the Coal Hollow Project. Prior to the permit being issued the Applicant will file with the Division a bond covering the identified increment of land within the permit area upon which the operator will initiate and conduct coal mining and reclamation operations. (R645-300-134, R645-301-820).
- 11. No lands designated as prime farmlands or alluvial valley floors occur on the permit area. See Technical Analysis dated October 15, 2009 (R645-302-313.100 and R645-302-321.100)
- 12. The proposed postmining land-use of the disturbed area is the same as the pre-mining land use and has been approved by the Division.
- 13. The Division has made all specific approvals required by the Act and the Cooperative

Agreement.

14. All procedures for public participation required by the Act, and the approved Utah State Program are in compliance. The public advertisement of administrative completeness and road relocation was published on March 26, April 2, 9 & 16, 2008 in the Southern Utah News. A second notice and opportunity for public hearing was published in the Southern Utah News on March 25, 2009. No requests for a hearing were received. (R645-300-120)
15. The applicant has indicated that there are no existing structures that will be used for the mining operation. (See Technical Analysis dated October 15, 2009) (R645-300-133.720).
16. Alton Coal Development, LLC agrees to pay all reclamation fees as required by 30 CFR Part 870. (R645-300-133.730)

Permit Supervisor

Associate Director of Mining

Director